

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Implementation of the Local)
Competition Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-98

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**REPLY TO OPPOSITIONS TO PETITIONS FOR
RECONSIDERATION AND/OR CLARIFICATION**

GTE Service Corporation ("GTE"), pursuant to Section 1.429(g) of the Commission's Rules, by its attorneys, and on behalf of its affiliated domestic telephone operating and wireless companies, respectfully submits its Reply to certain Oppositions to its Petition for Clarification of the Commission's *Second Report and Order* in the above-captioned proceeding.¹ As explained below, the Commission should:

- reject requests to accelerate the implementation schedule for toll dialing parity;
- clarify that the prohibition on the automatic assignment of intraLATA toll traffic applies only to new customers;
- clarify the procedures a LEC must follow when a state commission may not complete its review of the LEC's toll dialing parity plan in sufficient time for the LEC to meet the Commission's implementation deadline;
- reject requests to impose additional restrictions on the use of area code overlays; and

¹ *Second Report and Order and Memorandum Opinion and Order*, FCC 96-333 (released Aug. 8, 1996) ("*Second Report and Order*"). See Report No. 2160, 61 Fed. Reg. 56957 (Nov. 5, 1996).

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- recover number administration costs through an explicit, uniform surcharge on retail telecommunications revenues.

I. THE COMMISSION SHOULD REJECT REQUESTS TO ACCELERATE THE DIALING PARITY IMPLEMENTATION SCHEDULE

MCI's continued plea to expedite the toll dialing parity implementation schedule for non-BOC LECs² should be rejected.³ A number of LECs, including GTE, are already struggling to meet the Commission's aggressive deadlines.⁴ In fact, GTE has already explained that it may have to apply for waivers of the deadline because it cannot comply fully with the Commission's schedule.⁵

Even Sprint recognizes that abbreviating the implementation schedule poses more risks than benefits. For example, Sprint correctly points out that "[a]ccelerating the pace of dialing parity deployment could jeopardize the local number portability deployment schedule."⁶ In addition, as previously explained by GTE, shortening the schedule would not only disrupt established construction

² Opposition and Comments of MCI Telecommunications Corporation to Petitions for Reconsideration and Clarification at 3-4 ("MCI Opposition").

³ See, e.g., GTE Opposition To and Comments On Petitions for Reconsideration and/or Clarification at 2-5 ("GTE Opposition"); Sprint Corporation Comments on Petitions for Reconsideration at 3-4 ("Sprint Comments"); Consolidated Response of the United State Telephone Association at 8-10 ("USTA Response").

⁴ See, e.g., BellSouth Petition for Clarification or Reconsideration at 1-3 ("BellSouth Petition"); GTE Opposition at 2-4.

⁵ GTE Opposition at 2-4.

⁶ Sprint Comments at 4.

and investment plans, but also interfere with existing state-approved implementation plans.⁷ To avoid these dangers and ensure as smooth a conversion as possible, the Commission should reject requests to accelerate the toll dialing parity implementation schedule.

II. THE COMMISSION SHOULD CLARIFY THE PROCEDURES A LEC MUST FOLLOW WHEN A STATE COMMISSION MAY NOT COMPLETE ITS REVIEW OF THE LEC'S TOLL DIALING PARITY PLAN IN SUFFICIENT TIME FOR THE LEC TO MEET THE COMMISSION'S IMPLEMENTATION DEADLINE

In its Petition, GTE asked the Commission to clarify the procedures for filing toll dialing parity implementation plans with the FCC when a state commission may not complete its review of the LEC's plan in a timely manner.⁸ MFS Communications Company, Inc. ("MFS") agrees with GTE and proposes that the Commission amend its rules to require that LECs have state plans filed with the FCC "no later than 14 days after" the LEC determines that a state commission may not complete its review in sufficient time to meet the Commission's deadline.⁹

GTE supports the amendments proposed by MFS. These modifications would not only help resolve some of the timing issues left unaddressed by the Commission, but also comport with other Commission Rules related to filing implementation plans. For example, the Commission must place on public

⁷ GTE Opposition at 5.

⁸ GTE Petition at 10-12.

⁹ MFS Communications Company, Inc. Response to Petitions for Reconsideration at 2-3 ("MFS Response").

notice any LEC dialing parity implementation plan filed with the Commission.¹⁰ Such a "plan will be deemed approved on the fifteenth day following release of the Commission's public notice unless . . . " the Common Carrier Bureau notifies the LEC that the plan will not be approved or an opposition to the plan is filed.¹¹ Adoption of MFS's proposed amendment will permit LECs both to avoid the risk of inconsistent FCC and state determinations and to estimate more accurately when to file a plan with the Commission and still comply with the August 8, 1997 implementation deadline.

GTE, in its Petition, also requested that the Commission clarify whether it will permit a LEC to supplement a plan submitted to the Commission or to withdraw that plan if the involved state completes its review in a timely fashion.¹² The Public Utilities Commission of Ohio ("PUCO") "is opposed to GTE's suggestion that a LEC could be permitted to withdrawal [sic] its plan, once it is approved by the state commission."¹³

The PUCO misconstrues GTE's request. GTE is not advocating that the Commission permit LECs to withdraw state-approved implementation plans. Rather, GTE is seeking clarification as to which administrative entity's decisions will govern if both the state commission and the FCC are simultaneously

¹⁰ *Second Report and Order*, Appendix B-5 (to be codified at 47 C.F.R. § 51.213(d)).

¹¹ *Id.*

¹² GTE Petition for Clarification at 12 ("GTE Petition").

¹³ Public Utilities Commission of Ohio's Opposition and Comment to Petitions for Reconsideration at 3 ("PUCO Opposition").

evaluating the same implementation plan. In other words, once a LEC has submitted its implementation plan to the Commission, should the LEC continue to take any direction from the involved state or should it defer solely to the Commission?

GTE is fully committed to working with both state commissions and the FCC to ensure that it fulfills its dialing parity obligations. However, as evidenced by PUCO's statements, there is substantial room for confusion and misunderstanding surrounding the filing of implementation plans. To minimize this potential confusion, the Commission should clarify the procedures for filing implementation plans with both federal and state entities.

III. THERE IS SUBSTANTIAL AGREEMENT THAT THE COMMISSION SHOULD CLARIFY THAT THE PROHIBITION ON THE AUTOMATIC ASSIGNMENT OF INTRALATA TOLL TRAFFIC APPLIES ONLY TO NEW CUSTOMERS

Only a few commenters, such as AT&T, BellSouth, and the Telecommunications Resellers Association ("TRA"), object to GTE's requested clarification regarding the automatic assignment of intraLATA toll traffic.¹⁴ Most parties, including MFS, a competing LEC, recognize the ambiguity present in the Commission's Rules and endorse GTE's suggestion.¹⁵

¹⁴ See, e.g., Opposition of AT&T Corp. to Petitions for Reconsideration at 5-8 ("AT&T Opposition"); BellSouth Corporation Consolidated Opposition and Comments at 7-8 ("BellSouth Opposition"); Reply of the Telecommunications Resellers Association to Petitions for Reconsideration at 11-12 ("TRA Reply").

¹⁵ See, e.g., Ameritech Comments on Petitions for Reconsideration at 1-4 ("Ameritech Comments"); Bell Atlantic's Response to Petitions for Reconsideration at 2, 6-7 ("Bell Atlantic Response"); GTE Opposition at 6-7;
(continued...)

AT&T misreads GTE's proposal as one that would permit LECs "to refrain altogether from informing existing customers of toll dialing parity choices."¹⁶ Contrary to AT&T's assertions, allowing a LEC to default an existing subscriber to itself does not automatically relieve the LEC of its responsibility to notify customers of the existence of alternative carrier choices. As AT&T acknowledges, "the Commission afforded state commissions wide latitude to adopt the customer notifications procedures best suited to particular state circumstances"¹⁷ GTE intends to fully comply with any education and notification requirements established by the states pursuant to their authority under the *Second Report and Order*. The requested clarification will not undermine such directives.

BellSouth's assertion that "there is nothing to clarify and the Commission need only confirm that it never intended the inference drawn by petitioners or the hardship on consumers that would result therefrom"¹⁸ is somewhat paradoxical. BellSouth itself acknowledges that GTE and other petitioners "have

¹⁵(...continued)
MFS Response at 3-4; Pacific Telesis Group Comments on Petitions for Reconsideration at 5-6 ("PacTel Comments"); Reply of SBC Communications Inc. Reply at 1-2 ("SBC Reply").

¹⁶ See AT&T Opposition at 6.

¹⁷ AT&T Opposition at 6. See also *Second Report and Order* ¶ 80 ("The states may adopt balloting, consumer education and notification requirements for services originating within their states, that are not anticompetitive in effect. States also may adopt measures to prevent abuse of the customer notification and carrier selection processes.")

¹⁸ BellSouth Opposition at 7.

identified an ambiguity within the corresponding rule adopted by the *Second Order* which could be read to imply that existing customers are to be individually queried with respect to their choice of intraLATA toll carriers"¹⁹ A clear way to resolve this obvious ambiguity is to adopt the amendment proposed by GTE in its original Petition.²⁰ This suggested rule modification makes it clear that the prohibition on the automatic assignment of intraLATA toll traffic applies only to new subscribers, not existing customers.

IV. THE COMMISSION SHOULD REJECT PETITIONS SEEKING TO IMPOSE ADDITIONAL RESTRICTIONS ON NUMBER ADMINISTRATION

Several commenters again ask the Commission to grant CLECs unlimited access to NXXs when an area code overlay is implemented.²¹ However, the Commission should resist such continuing attempts to impose further restrictions on number administration.

There is substantial agreement that expanding the Commission's already burdensome "one-code-per-carrier" requirement will only exacerbate the problem of number exhaust and lead directly to the warehousing of NXX

¹⁹ *Id.*

²⁰ For the amendment proposed in GTE's initial Petition, see attached Appendix.

²¹ See, e.g., Teleport Communications Group Inc. Consolidated Comments and Opposition to Selected Petitions for Reconsideration at 6-8 ("TCG Comments").

codes.²² Indeed, a number of parties agree that the Commission should not only refuse to expand the code assignment requirement, but should eliminate this rule altogether.²³ Providing an NXX to all providers, even those existing companies that already have NXXs within the exhausting NPA, would be an inefficient use of numbering resources.²⁴ Thus, GTE endorses the complete elimination of the code assignment requirement.

The Commission also should again reject requests to make the implementation of long-term number portability a precondition for an area code overlay.²⁵ Numerous parties have thoroughly addressed the deficiencies inherent in this proposal.²⁶ For example, since "permanent number portability

²² See, e.g., Ameritech Comments at 5-6; BellSouth Opposition at 2-3; GTE Opposition at 11-12.

²³ See, e.g., NYNEX Petition for Reconsideration and/or Clarification at 11 ("NYNEX Petition"); USTA Petition for Reconsideration and Clarification at 9-11 ("USTA Petition"); Bell Atlantic Response at 3-4; GTE Opposition at 11-12; Comments on Petitions for Reconsideration of the Southern New England Telephone Company Comments at 9 ("SNET Comments"); USTA Response at 6.

²⁴ BellSouth Petition at 8-9; SBC Communications Inc. Petition for Reconsideration at 27 ("SBC Petition").

²⁵ *Second Report and Order* ¶ 290. See, e.g., AT&T Petition for Limited Reconsideration and Clarification at 8-9 ("AT&T Petition"); Cox Communications, Inc. Petition for Reconsideration at 5-7 ("Cox Petition"); MCI Opposition at 8-9; National Cable Television Association, Inc. Comments on Petitions for Reconsideration at 1-6 ("NCTA Comments"); Sprint Comments at 7-8; TCG Comments at 3-6.

²⁶ See, e.g., Bell Atlantic NYNEX Mobile, Inc. Opposition to Petitions for Reconsideration at 3-8 ("BANM Opposition"); BellSouth Opposition at 1-2; GTE Opposition at 12-13; SNET Comments at 9-10; USTA Response at 2-5; U S West Response to the Reconsideration Petitions at 11-12 ("U S West Response").

is still in its infancy,"²⁷ mandating its implementation before an overlay could be used would "deny the states the flexibility they need in dealing with area code relief."²⁸ The Commission should not unduly impinge on the authority and ability of the states, LECs, the Industry Numbering Committee, and the North American Numbering Council to address area code relief.

V. THE COSTS OF NUMBER ADMINISTRATION SHOULD BE RECOVERED THROUGH AN EXPLICIT, UNIFORM SURCHARGE ON RETAIL TELECOMMUNICATIONS REVENUES

GTE continues to support those parties asking the Commission to modify the mechanism to recover the costs of number administration. Commenters have demonstrated that the FCC' current standard -- gross telecommunications revenues less telecommunications expenses paid to other carriers -- is not competitively neutral, because it places a disproportionate share of the costs on incumbent LECs.²⁹ To ensure that all telecommunications carriers bear their fair share of the costs of number administration, GTE recommends that the

²⁷ USTA Response at 4.

²⁸ *Id.* at 5.

²⁹ See, e.g., BellSouth Petition at 7; NYNEX Petition at 2-5; SBC Petition at 19-20; US West Response at 2-8. For a detailed analysis of the cost disparity between facilities-based carriers and resellers using the "gross revenues net payment" allocator and the "retail revenues" allocator, see US West Response at 2-8.

Commission adopt a cost recovery mechanism that imposes an explicit, uniform surcharge on the total interstate and intrastate retail revenues of carriers.³⁰

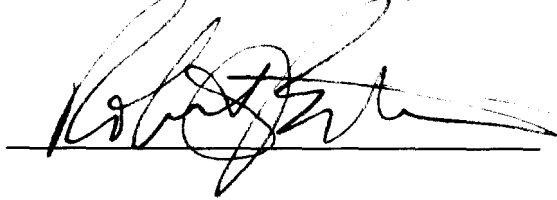
CONCLUSION

For all of the foregoing reasons, GTE urges the Commission to take the actions requested herein.

Respectfully submitted,

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of its affiliated domestic telephone
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December 3, 1996

³⁰ See, e.g., NYNEX Petition at 3; Ameritech Comments at 12-13; Bell Atlantic at Response at 5-6; GTE Opposition at 14-16; US West Response at 2-8.

APPENDIX

Recommended Amendment to the Rules Adopted in the *Second Report and Order*

1. Amend § 51.209 Toll dialing parity
 - (c) A LEC may not assign automatically a customer's intraLATA toll traffic of any new customer to itself, to its subsidiaries or affiliates, to the customer's presubscribed interLATA or interstate toll carrier, or to any other carrier after the effective date of implementation of intrastate, intraLATA toll dialing parity, except when, in a state that has already implemented intrastate, intraLATA toll dialing parity, the subscriber has selected the same presubscribed carrier for both intraLATA and interLATA toll calls.

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I hereby certify that on this 3rd day of December, 1996, I caused copies of the foregoing "Reply To Oppositions To Petitions For Reconsideration And/Or Clarification" to be mailed via first-class postage prepaid mail to the following:

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